IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14889 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

N.A.ACHARYA - PRESIDENT INDUSTRIAL COURT

Versus

COMMISSIONER (FOR PERSONS WITHDISABILITIES) STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14889 of 2004

MR JB PARDIWALA for Petitioner No. 1

MR NC SOOD, AGP for Respondent No. 1

MS HINA DESAI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/12/2004

ORAL JUDGEMENT

This petition is filed by the President of Industrial Court, Ahmedabad, challenging the order passed

by the Commissioner (for Persons with Disabilities), by which he has interfered with the order passed by the petitioner transferring the respondent No.2 from Kheda to Bhuj. By the said order, the Commissioner has passed an order to the effect that the transfer order of respondent No.2 is cancelled with immediate effect and he should be placed as a clerk of the Court of Labour Court at Nadiad. It is the aforesaid order, which is impugned in this petition.

This petition is admitted by the learned Single Judge and notice is as to interim relief is also issued and the matter is adjourned for interim relief.

It is argued on behalf of the petitioner, that the Commissioner has no jurisdiction to interfere with the transfer order passed by the petitioner.

Mr.Sood, learned AGP, after taking instruction from the Commissioner (For Persons with Disabilities) as well as from the Secretary, who is present in the Court, states that the respondent No.1 is withdrawing the impugned order dated 30th September, 2004.

Since the order in question is withdrawn by respondent No.1, now nothing further is required to be done in this matter and this petition has become infructuous. As the order is withdrawn by respondent No.1, the same stands cancelled.

At this stage, Ms.Desai, learned advocate appearing for the respondent No.2, who is a clerk of the Labour Court, states that her client is suffering from Polyarticular Arthritis with joint problems. It is submitted by her that even though the climate of the Bhuj is not conducive to the health of the respondent No.2, he has joined his duty at Bhuj.

Since it is argued by learned advocate for respondent No.2 that respondent No.2 is having ailment and climate of Bhuj is not good for his health, the respondent No.2 may make fresh representation to the President, Industrial Court, highlighting his difficulties in such representation. I am sure that the President, Industrial Court, will consider such representation appropriately and may try to accommodate the respondent No.2 in any nearby labour Court, i.e. at Nadiad, Anand, Ahmedabad, Baroda or even at Godhra. The President, Industrial Court, may sympathetically consider the case of the respondent No.2 for placing him at any place mentioned hereinabove.

If any representation is made by the respondent No.2, the same may be disposed of within a period of two months from the date of receipt of the same from the respondent No.2. At the time of deciding such representation, availability of the posts etc., may be taken into consideration and whatever decision taken in this regard, may be communicated to the respondent No.2.

Subject to what is stated hereinabove, this petition is disposed of. Rule is discharged with no order as to costs.

(P.B.Majmudar,J.)
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